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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKET SECTION
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Joint Application of

DELTA AIR LINES, INC., SWISSAIR,
SWISS AIR TRANSPORT COMPANY, LTD.,
SABENA **S.A.**, SABENA BELGIAN WORLD
AIRLINES, and AUSTRIAN AIRLINES,
OSTERREICHISCHE LUFTVERKEHRS AG

For approval of and antitrust
immunity for Alliance Agreements
pursuant to 49 U.S.C. §§ 41308
and 41309

Docket OST-95-618 - 16

ANSWER OF
AIR LINE PILOTS ASSOCIATION
TO MOTION FOR CONFIDENTIAL TREATMENT

Communications with respect to
this document should be served on:

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October 19, 1995

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Delta Air Lines, Swissair, Sabena, and Austrian ("Joint Applicants") have requested that DOT grant confidential treatment to certain information submitted pursuant to Order 95-9-27, and that access to a portion of that information, which the Joint Applicants deem to be "extremely competitively sensitive," be restricted to counsel and outside experts for interested parties. **ALPA** does not object to the Joint Applicants' request that the submitted information be afforded confidential treatment under Rule 39. **ALPA** does object, however, to their request that access to any information be limited to counsel and outside experts.

As DOT has cautioned in similar circumstances, the Department "should not adopt procedures that compel parties to

use outside counsel and experts when they prefer to rely on their internal staff." Order 86-10-11. "[I]n-house personnel of the parties should be allowed to examine [confidential] documents, since their expertise should enable them to provide their employers with an expert analysis. Allowing them access to the information should not impede [the applicants'] competitive position, since anyone reviewing the material must pledge to keep it confidential." Order 92-6-14 at 4-5.

ALPA uses in-house experts whenever practical and has done so in numerous merger and acquisition, route transfer, and fitness cases that have involved confidential documents. ALPA's in-house experts scrupulously honor the commitments made in Rule 39 confidentiality affidavits and there has never been a suggestion, much less any evidence, that these experts have ever used any confidential information for any purpose other than for the purposes of the proceedings in which the information was submitted.

In support of their request, the Joint Applicants cite Order 93-12-32 in the United-Lufthansa codesharing case in which DOT found that the "unique competitive harm" that the applicants could suffer if access were expanded to inside experts outweighed commenters' need for access to what DOT characterized as "highly sensitive material." DOT did not explain the basis for its determination that the confidential information submitted by the applicants in that case was any more deserving of special protection than that submitted in other proceedings where in-house experts who filed the appropriate affidavits were given

access. But it is clear that the focus of the Department's concerns - as is the Joint Applicants' here (see Joint Motion at 6) - was on the potential harm if "competitors" were granted access to marketing strategies and analyses. This concern should not come into play with respect to ALPA's in-house experts because ALPA is not a "competitor" of any of the Joint Applicants.

CONCLUSION

Plainly, in these circumstances it would be unduly burdensome, inefficient, and unjustified to require ALPA to retain outside experts to assist in evaluating the confidential information submitted in this proceeding. The Department should grant access to that information to ALPA's in-house experts who file affidavits promising to maintain its confidentiality.

Respectfully submitted,

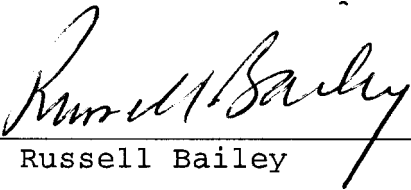


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October 19, 1995

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of October, 1995,
copies of the foregoing Answer were served on the individuals on
the attached service list.



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